

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
WILMINGTON DIVISION

IN RE:

F I L E D

CASE NO.:

H. T. RESTAURANTS, INC.	SEP 25 2000	97-01898-8-JRL
M.R.G.R.E., INC.,	PEGGY B. DEANS, CLERK U.S. BANKRUPTCY COURT EASTERN DISTRICT OF N.C.	98-00506-8-JRL
M.R.G.E.Q., INC.,		98-00508-8-JRL
MULTI RESTAURANT GROUP, LTD.		98-00507-8-JRL

Debtors	(Chapter 7)
Joseph N. Callaway, Trustee in Bankruptcy)	
for H. T. Restaurants, Inc., M.R.G.R.E., Inc.,)	
M.R.G.E.Q., Inc., and Multi Restaurant)	
Group, Ltd.,)	
)	
Plaintiff,)	
)	
vs.) ADVERSARY PROCEEDING NO.:	
)	
Restaurant Combinations, Inc.,) L-00-00169-8-JRL	
Restaurant Genesis Corporation,)	
AQMI Corporation, Victor Robert,)	
Phillip Allen, Frank Amodeo, and,)	
Jerry E. Beavers,)	
)	
Defendants.)	

PLAINTIFF'S MOTION TO DISMISS COMPLAINT PURSUANT
TO RULE 7041

NOW COMES the trustee and plaintiff in the above-referenced action, by and through counsel, and respectfully requests that the Court enter an Order dismissing the Complaint against the defendants in this action pursuant to Federal Rule of Bankruptcy Procedure 7041 and Federal Rule of Civil Procedure 41(a)(2) without prejudice to the trustee's rights to bring the action at a later date if he

deems it appropriate to do so and granting to him such other and further relief as to the Court may seem just and proper.

Dated:

9/21/00

BUTLER & BUTLER

Algernon L. Butler

Algernon L. Butler, III
Attorneys for Trustee
N.C. State Bar No. 20881
P.O. Box 38
Wilmington, NC 28402-0038
(910) 762-1908

**UNITED STATES BANKRUPTCY COURT
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AQMI Corporation, Victor Robert,)	
Phillip Allen, Frank Amodeo, and,)	
Jerry E. Beavers,)	
)	
Defendants.)	

NOTICE OF MOTION

NOTICE IS HEREBY GIVEN of the Plaintiff's Motion to Dismiss Complaint Pursuant to Rule 7041 filed simultaneously herewith in the above captioned case, a copy of which motion is attached hereto; and

NOTICE IS FURTHER GIVEN that this motion may be allowed provided no response and request for a hearing is made by the parties in interest in writing to the Clerk of this Court at Post Office Box 2807, Wilson, North Carolina 27895 within TWENTY (20) DAYS from the date of this notice; and

NOTICE IS FURTHER GIVEN that if a response and a request for a hearing is filed by a party in interest named herein, in writing within the time indicated, a hearing will be conducted on the motion and response at a date and time to be later set by the Court. If no response for a hearing is timely filed, the Court may rule on the motion and response thereto *ex parte* without further notice. Any party requesting a hearing shall appear at the hearing in support of such an objection or may be assessed with costs.

Dated:

9/22/00

BUTLER & BUTLER

Al Butler

Algernon L. Butler, III
Attorneys for Trustee
NC State Bar No. 20881
PO Box 38
Wilmington, NC 28402
(910) 762-1908

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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury that he is over eighteen (18) years of age, and that the

**PLAINTIFF'S MOTION TO DISMISS COMPLAINT PURSUANT
TO RULE 7041 AND NOTICE THEREOF**

in the above captioned case was this day served upon the below named persons by mailing, postage prepaid, first class mail, of a copy of such instrument to such persons, parties and/or counsel at the address shown below:

Mr. Frank Amodeo
Reg No.: 48883-019
FPC Pensacola Dorm B
110 Ruby Avenue
Pensacola, FL 32509-5127

Mr. Phillip Allen
124 Wisteria Drive
Longwood, FL 32779

Mr. Victor Robert
8479 Southern Park Drive
Tallahassee, FL 32310

Dated:

9/24/00

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Al Butler

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Wilmington, NC 28402
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